THE HONOURABLE SRI JUSTICE
A.GOPAL REDDY
and
THE HONOURABLE SRI JUSTICE
NOOTY RAMAMOHANA RAO

Taken up W.P.No.126 of 2005

Dt. 04-12-2007

Between:
K.Rajagopala Reddy, MSJ, Hyderabad

..Petitioner

and

1.The Managing Director, TV9 channel, Hyderabad and others.

..Respondents.

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Oral Order: (Per Hon'ble Sri Justice A.Gopal Reddy)

This is a taken up writ petition on the basis of the letter addressed by the Metropolitan Sessions Judge, Hyderabad complaining the live telecast by TV9 channel on 22-12-2004 a lady by name Prabhavathi daughter of Siva Reddy and sister of Rama Subba Reddy making serious allegations that money amounting lakhs of rupees alleged to have been paid by one Adinarayana Reddy the sitting member of legislature from Jammalamadugu constituency in obtaining the conviction in S.C.No.454 of 2002. It is also alleged that Prabhavathi repeatedly telecasted the same in TV9 channel in an irresponsible manner, which amounts to interfering with the administration of justice, trying to demean the judicial system in the country by tarnishing the image of judicial officers without even trying to verify the truth.

When the writ petition was taken up for hearing after due notice to the respondents, this Court convinced that it is a fit case for initiation of proceedings under the Contempt of Courts Act, 1971 against the Managing Director, TV9 Channel and Smt. Himavathi w/o Dr.Sadasiva Reddy. Accordingly, notices were issued under suo motu contempt case No.634 of 2005. After receipt of notices respondents 1

and 4 appeared and filed their affidavits tendering apology. This court by order dated 07-08-2005 disposed of the contempt case, by not accepting the apology offered by the Managing Director of TV9 Channel and convicted him for contempt of court and sentenced him to undergo two months simple imprisonment and to pay a fine of Rs.2,000/-. The sentence, however, was suspended for a period of six months and during this period, if he is convicted in any other contempt, this sentence shall also become operative.

We have heard Sri D.Prakash Reddy, learned senior counsel for the first respondent, learned Advocate General for the 2nd respondent and Sri A.Rajasekhar Reddy, learned Assistant Solicitor General of India for respondent No.3.

The Under Secretary, Ministry of Information & Broadcasting filed a counter affidavit stating that all the programmes transmitted/retransmitted through cable network are required to adhere to the provisions of Programme Code prescribed under the Cable Television Networks (Regulation) Act, 1995 (for short "the Act") and the rules framed thereunder. Rule 6 of the Cable Television Networks Rules, 1994 i.e. Programme Code, inter alia, provides that no programme should be carried in the cable service which:

> Offends against good taste or decency;
>
> Contains anything obscene, defamatory deliberate, false and suggestive innuendos and half-truths;
> Is likely to encourage or incite violence or contains anything against maintenance of law and order or which promote antinational attitudes;
>
> Contains anything amounting to contempt of court;
> Contains aspersions against the integrity of the president and judiciary;
>
> Criticizes, maligns or slanders any individual in person or

certain groups, segments of social, public and moral life of the country.

The Ministry has constituted an Inter-Ministerial Committee to look into the violations of the Programme Code and advertising code. On the recommendations of this Committee, appropriate action will be taken against TV channels for violation of the codes. Further, under Section 19 of the Act the "authorized Officer" i.e. SDM, DM or Commissioner of Police within their respective jurisdiction have the powers to prohibit, by order, any transmission or retransmission of any programme or channel if it is not in conformity with the prescribed Programme Code. The Ministry of Information & Broadcasting could not issue show cause notice to the respondents for repeatedly telecasting the programme by TV9 channel as he failed to provide the recordings of the programme telecast in its channel on 22-12-2004; when the first respondent was asked to produce the recorded version of the above said telecast, he stated that the said recorded version of the telecast is submitted before the court in the present writ petition. Therefore, necessary action could not be taken against the 1st respondent.

Learned senior counsel, Sri D.Prakash Reddy contends that in view of punishment imposed on the 1st respondent, no further action need be taken against him.

On the other hand, the learned Advocate General submits that if the transmitter is available, the 2nd respondent will consider whether any offence has been committed by the 1st respondent and suitable action will be taken after reviewing the live telecast.

Sri A. Rajasekhar Reddy, the learned Assistant Solicitor General of India submits that if the copy of the CD is provided to the

Information & Broadcasting Ministry, they will examine the same and finds violation of Programme Code, if any, necessary action will be taken in the light of Rule 6 of the Rules.

Under Section 5 of the Act, no person can transmit and retransmit through a cable service any programme unless such programme is in conformity with the prescribe Programme Code. The proviso to section exempts the programmes of foreign satellite channels which can be received without use of any specialized gadgets or decoder.

Chapter IV deals with offences and penalties. Section 16 envisages punishment for contravention of provisions of this Act; whereas Section 19 prohibits transmission of certain programmes in the public interest. Rule 6 of the Rules deals with the Programme Code.

The video tape of broadcast (CD) made on 22-12-2004 relating to delivery of judgment by the Metropolitan Sessions Judge, Hyderabad in S.C.No.454 of 2002 was made available by the first respondent, which was kept in the personal custody of the Registrar (Judicial).

In view of the same, we direct the Registrar (Judicial), who is the custodian of the original CD, shall make two copies of the same; furnish one copy to the Under Secretary, Ministry of Broadcasting, Government of India, New Delhi, under the seal of the Registrar (Judicial) and another to the learned Advocate General's office for enabling them to take appropriate action against the 1st respondent as per law for telecasting the programme against the Programme Code. The original CD should be kept in the custody of the Registrar (Judicial) till the Ministry of Information & Broadcasting decides the issue and after that the same will be returned to the person as directed

by the Ministry of Broadcasting.

With the direction as above, the writ petition is disposed of. No costs.

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A.GOPAL REDDY, J.

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NOOTY RAMAMOHANA RAO, J

04-12-2007
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